

1/24/2019

JULIA C. DUDLEY, CLERK
BY: *H. Wheeler*
DEPUTY CLERK

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
CHARLOTTESVILLE DIVISION

JERIKA ANN CHAMBERS,

Plaintiff,

v.

COMMISSIONER OF SOCIAL
SECURITY,

Defendant.

Civil Action No. 3:17CV00070

ORDER

By: Hon. Glen E. Conrad
Senior United States District Judge

This matter was referred to United States Magistrate Judge Joel C. Hoppe pursuant to 28 U.S.C. § 636(b)(1)(B) for proposed findings of fact, conclusions of law, and a recommended disposition. The Magistrate Judge submitted a Report and Recommendation on January 4, 2019, in which he recommends that the Commissioner's motion for summary judgment be denied and that the case be remanded for further administrative consideration consistent therewith. No objections to the Report and Recommendation having been filed, the court is of the opinion that Judge Hoppe's recommendation that the case be remanded to the Commissioner should be adopted.¹

It is accordingly

ORDERED

as follows:

1. The magistrate judge's recommendation of January 4, 2019 (Dkt. #17) that the case be remanded to the Commissioner shall be it and hereby is ADOPTED;

¹ The court does not necessarily subscribe to all of the legal conclusions set forth in the Report and Recommendation. However, without question, plaintiff submitted additional evidence to the Appeals Council which was relevant to the period of time in question, and which should have been considered in the adjudication of her claim for benefits.

2. The Commissioner's motion for summary judgment (Dkt. #12) is DENIED; and this case shall be and it hereby is REMANDED to the Commissioner for consideration of the additional evidence submitted to the Appeals Council;

3. Upon remand, should the Commissioner be unable to decide this case in plaintiff's favor on the basis of the existing record, the Commissioner shall conduct a supplemental administrative hearing at which both sides will be allowed to present additional evidence and argument; and

4. The parties are advised that the court considers this remand order to be a "sentence four" remand. See Melkonyan v. Sullivan, 501 U.S. 89, 111 S. Ct. 2157 (1991); Shalala v. Schaefer, 509 U.S. 292, 113 S. Ct. 2625 (1993). Thus, this order of remand is a final order. Id. If the Commissioner should again deny plaintiff's claim for benefits, and should plaintiff again choose to seek judicial review, it will be necessary for plaintiff to initiate a new civil action within sixty (60) days from the date of the Commissioner's final decision on remand. See 42 U.S.C. § 405(g).

The Clerk is directed to send a certified copy of this order to the plaintiff and counsel of record.

ENTER this 14th day of January, 2019.



Senior United States District Judge